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DENISE R. REED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DENISE R. REED.

Petitioner,

VS.

NATIONAL ASSOCIATION OF
SECURITIES DEALERS, INC., WHITE
PACIFIC SECURITIES, INC.
and ROY L. PANELLI,

Respondents.

Case No. 4:07-CV-03648-CW

PETITIONER DENISE R. REED'S FIRST
(1ST) AMENDED PETITION TO
CONFIRM ARBITRATION AWARD

Petitioner DENISE R. REED (“Reed”), by and through her attorneys, Shustak & Partners, P.C., submits her First (1st) Amended Petition to Confirm the Arbitration Award rendered in her favor and against Respondents WHITE PACIFIC SECURITIES, INC. (“White Pacific”) and ROY L. PANELLI, (“Panelli”) on June 5, 2007, and respectfully alleges:

JURISDICTION AND VENUE

1. Reed brings this civil action in accordance with 9 U.S.C. § 9, *et seq.*, to confirm the arbitration award in her favor and against White Pacific and Panelli in an arbitration before the NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., (“NASD”), bearing NASD Case No. 04-03449 (the “Arbitration Award”). A true and correct copy of the Arbitration Award, which

1 the NASD served on all parties on June 5, 2007, is marked and attached to the Declaration of Jonah
2 A. Toleno ("Toleno Dec."), submitted in support of this First (1st) Amended Petition, as Exhibit "A".

3 2. Jurisdiction and Venue are proper in this Court pursuant to 9 U.S.C. § 9, *et seq.*, as the
4 Arbitration Award was rendered within this District.

5 3. Jurisdiction is also proper in this Court pursuant to NASD Rule 2130. Reed seeks to
6 confirm the Arbitration Award which grants, in addition to monetary awards, the expungement of
7 certain occurrences on her Central Registration Depository ("CRD") records, all of which
8 occurrences took place prior to April 11, 2004. NASD Rule 2130 governs the expungement of
9 customer complaints from the CRD system. Rule 2130 specifies that "Members or associated
10 persons seeking to expunge information from the CRD system arising from disputes with customers
11 must obtain an order from a court of competent jurisdiction directing such expungement or
12 confirming an arbitration award containing expungement relief." Rule 2130's requirements for
13 confirmation of an arbitration award apply to complaints lodged prior to April 11, 2004. Thus,
14 jurisdiction over Reed's Petition is proper in this Court.

15 PARTIES

16 4. Petitioner Reed resides in Reno, Nevada.

17 5. Respondent White Pacific is a Nevada corporation with a principal place of business at
18 231 Sansome St., Suite 4f, San Francisco, CA 94104.

19 6. Respondent Panelli is an employee of White Pacific who, upon information and belief,
20 resides in California.

21 7. Respondent NASD is a corporation with its principal business address at 1735 "K"
22 Street NW, Washington, DC 20006. The registered agent of the NASD within the State of California
23 is Corporate Creations Network, Inc., 131-A Stoney Circle, Suite 500, Santa Rosa, CA 95401.

24 MATERIAL ALLEGATIONS

25 8. Reed hereby refers to the concurrently filed Declaration of Jonah A. Toleno and
26 incorporates that Declaration by reference as though fully set forth in this Petition.
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1 9. Reed initiated the arbitration against White Pacific and Panelli based on the
2 inaccurate reporting of certain events on Reed's Forms U-4 and U-5 filed with the CRD. Reed
3 sought expungement of these inaccuracies on her Forms U-4 and U-5, and also alleged causes of
4 action for defamation, breach of contract, breach of the implied covenant of good faith and fair
5 dealing, and negligence. (Toleno Dec., ¶2.)

7 10. The matter proceeded to hearing on April 16 - 18, 2007 in San Francisco, California.
8 After the arbitration panel (the "Panel") completed a study of all of the facts, circumstances,
9 elements, and proofs regarding the controversies submitted to them, the Panel came to a decision
10 and made its Arbitration Award. (Toleno Dec., ¶3.)

12 11. The NASD served the Arbitration Award on the parties on June 5, 2007. The
13 Arbitration Award granted Reed's request for expungement of her Forms U-4 and U-5. Of the
14 seven occurrences on Reed's U-4, U-5 and CRD records for which Reed sought amendment, the
15 panel recommended (a) expungement of five of the occurrences (occurrences "a" - "e" as
16 referenced on the Arbitration Award) on the basis that they were "clearly erroneous", and (b)
17 expungement of two of the occurrences (occurrences "f" and "g" as referenced on the Arbitration
18 Award) on the basis that they were "defamatory". (Toleno Dec., ¶¶4-5, Ex. A, pp. 4-5.)

20 12. The panel further deemed Reed the prevailing party and thus awarded in favor of
21 Reed and against White Pacific her reasonable attorneys' fees in the amount of \$158,797.10 and
22 her costs and expenses of suit in the amount of \$5,603.70. (Toleno Dec., ¶¶4-6, Ex. A, p.4).

24 13. White Pacific's payment of Reed's attorneys' fees was due by July 5, 2007. As of the
25 current date, White Pacific has only submitted payment of \$5,603.70 to cover Reed's costs and
26 expenses. White Pacific confirmed in a letter dated July 5, 2007, that it had not paid the
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1 attorneys' fees but instead deposited in an escrow account. A true and correct copy of White
2 Pacific's letter to NASD Dispute Resolution dated July 5, 2007, is marked and attached to the
3 Declaration of Jonah A. Toleno, submitted in support of this First (1st) Amended Petition, as
4 Exhibit "B". As a result, Reed is still owed the entirety of her attorney's fees in the amount of
5 \$158,797.10, plus post-judgment interest. (Toleno Dec., ¶7)
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7 14. Pursuant to the Independent Contractor Agreement between Reed and White Pacific,
8 Reed is entitled to her attorneys' fees and costs incurred in the filing of this petition. A true and
9 correct copy of the Independent Contractor Agreement is marked and attached to the Declaration
10 of Jonah A. Toleno, submitted in support of this First (1st) Amended Petition, as Exhibit "C".
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12 **WHEREFORE**, Reed requests that the Arbitration Award be confirmed in its entirety,
13 that judgment be entered in favor of Reed and against White Pacific in the amount of
14 \$158,797.10, plus post-judgment interest from June 5, 2007, until such time as this amount is
15 fully paid at the legal rate of 10% per annum, and that Reed be awarded her reasonable attorneys'
16 fees and costs incurred in bringing this Petition to Confirm the Arbitration Award.
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1 DATED: July 24, 2007

Submitted by,

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3 SHUSTAK & PARTNERS, P.C.
4 ERWIN J. SHUSTAK
5 THOMAS C. FROST
6 JONAH A. TOLENO
7 ROBERT L. HILL

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